

United States Court of Appeals
For the Eighth Circuit

No. 18-2353

Frank E. Bohrn

Petitioner - Appellant

v.

Warden R. Marques

Respondent - Appellee

Appeal from United States District Court
for the District of Minnesota - Minneapolis

Submitted: September 4, 2018

Filed: October 15, 2018

[Unpublished]

Before LOKEN, KELLY, and ERICKSON, Circuit Judges.

PER CURIAM.

Federal inmate Frank Bohrn appeals the district court's dismissal of his 28 U.S.C. § 2241 petition challenging the decision by Bureau of Prisons (BOP) officials to postpone his placement in a Residential Reentry Center (RRC). Although the district court dismissed Bohrn's petition for lack of jurisdiction, it also adopted the

magistrate judge's alternative recommendation that the petition should be denied on the merits.

Construing Bohrn's petition as a challenge to the BOP's general policies regarding RRC placement, see Martin v. Gerlinski, 133 F.3d 1076, 1079 (8th Cir. 1998), we agree with the district court's alternative disposition. The BOP had the authority to address, through an internal memo, the allocation of BOP resources. See Miller v. Whitehead, 527 F.3d 752, 757 (8th Cir. 2008) (stating that even where a statute requires the BOP to make an individualized determination, it may rely on rulemaking to resolve certain issues of general applicability). That guidance instructed BOP officials making placement determinations to consider "the resources of the facility contemplated," as required by statute. 18 U.S.C. § 3621(b)(1). There is no indication that the BOP's policy caused the agency to abdicate its obligation to conduct an individualized review of Bohrn's circumstances in this case.

Accordingly, the judgment below is reversed and the case is remanded with instructions to deny the petition. See 8th Cir. R. 47A.
